



Public Health Association
AUSTRALIA

**Submission on Senator Jacqui Lambie's
*Commonwealth Electoral Amendment
(Donation Reform and Other Measures)*
Bill 2020**

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Legislation Committee

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The **Public Health Association of Australia** (PHAA) is recognised as the principal non-government organisation for public health in Australia working to promote the health and well-being of all Australians. It is the pre-eminent voice for the public's health in Australia.

The PHAA works to ensure that the public's health is improved through sustained and determined efforts of our Board, National Office, State and Territory Branches, Special Interest Groups and members.

We believe that health is a human right, a vital resource for everyday life, and a key factor in sustainability. Health equity and inequity do not exist in isolation from the conditions that underpin people's health. The health status of all people is impacted by the social, cultural, political, environmental and economic determinants of health. Specific focus on these determinants is necessary to reduce the unfair and unjust effects of conditions of living that cause poor health and disease. These determinants underpin the strategic direction of the Association.

Our mission as the leading national organisation for public health representation, policy and advocacy, is to promote better health outcomes through increased knowledge, better access and equity, evidence informed policy and effective population-based practice in public health. Members of the Association are committed to better health outcomes based on these principles.

Our vision is for a healthy population, a healthy nation and a healthy world, with all people living in an equitable society underpinned by a well-functioning ecosystem and a healthy environment, improving and promoting health and wellbeing for all.

The reduction of social and health inequities should be an over-arching goal of national policy, and should be recognised as a key measure of our progress as a society. Public health activities and related government policy should be directed towards reducing social and health inequity nationally and, where possible, internationally.

PHAA submission on Senator Jacqui Lambie's Electoral Donation Reform Bill

This is a submission to the Senate Finance and Public Administration Legislation Committee inquiry into the *Commonwealth Electoral Amendment (Donation Reform and Other Measures) Bill 2020* ("Senator Lambie's bill").

The amends the Commonwealth Electoral Act 1918 to:

- extend the definition of reporting entities to include political entities, campaigners, associated entities and third parties
- lower the political donation disclosure threshold from \$14,000 to \$2,500
- require disclosure by reporting entities and donors when the sum of the gifts and donations provided by the same donor to the same reporting entity is greater than the disclosure threshold
- require disclosure by reporting entities within 7 days of a reportable gift being made, and require disclosure within 7 days of any subsequent gifts until the end of the reporting period
- require reporting entities to lodge half-yearly returns with details of the nature and source of all reportable donations and other receipts
- require reporting entities to hold an electoral expenditure account with an authorised deposit-taking institution, from which all electoral expenditure must be paid
- increase the monitoring and investigatory powers of the Australian Electoral Commission
- provide for infringement notices and civil penalty provisions for reporting entities that fail to meet their disclosure obligations.

Past submissions

We refer the Committee to previous submissions made by PHAA to the Parliament on related topics, including:

- [Submission](#) to the Senate Select Committee into the Political Influence of Donations (October 2017)
- [Submission](#) to the Joint Standing Committee on Electoral Matters inquiry into the *Electoral Legislation Amendment (Electoral Funding and Disclosure Reform) Bill 2017* (January 2018)

PHAA notes in particular the damage to the public interest caused by public decisions being distorted to serve private interests. The problem is all the more serious when decisions benefiting private interests are 'purchased' by means of donations to political parties with power to legislate and govern. In many cases it is hard to see how such transactional political relationships between government and private interests can be conceptually distinguished from corruption.

It is further contrary to the public interest that such transactions can occur away from effective scrutiny. Whilst such transactions continue to occur, the public interest will be served by imposing the strongest practicable regime of transparency and accountability.

For these reasons, in the course of those previous submissions PHAA reached the following general policy stance:

- *Political donations should be banned*
- *If donations are to be maintained, or in the meantime:*
 - *There should be a single national online register of all donations, regardless of the amount, updated daily for real-time disclosures*
 - *The register should include donations in other forms including gifts, attendance at fundraising events, fees for membership of and attendance at networking and other similar forums, sponsorships and hosting events*

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- *The register should include disclosure of all meetings between donors and political parties and their respective representatives*
- *Tax deductions for political donations should be banned*
- *Political donations from companies whose goods cause demonstrable public health damage, such as tobacco, alcohol and gambling, should be banned.*

The current bills

Senator Lambie's bill would substantially improve the regime for transparency of donations made to political parties. That being a very desirable end in the public interest, **PHAA recommends that the Committee should give support to Senator's Bill, and make such a recommendation to the Senate in its report.**

However we also note additional context is raised by the previous introduction into Parliament of three shorter bills on the subject of electoral donations disclosure, including the *Commonwealth Electoral Amendment (Transparency Measures—Lowering the Disclosure Threshold) Bill 2019* and the *Commonwealth Electoral Amendment (Transparency Measures—Real Time Disclosure) Bill 2019*, both presented to the Senate by Senator Farrell, and the *Commonwealth Electoral Amendment (Lowering the Donation Disclosure Threshold) Bill 2019* presented to the House of Representatives by Rebekah Sharkie MP.

To a large extent, the proposals raised by these shorter bills are dealt with more comprehensively by Senator Lambie's bill. PHAA recommends that relevant members of Parliament come together to discuss resolution of the minor differences in details of the proposed legislation, most notably regarding the specific disclosure threshold dollar value (\$2,500 vs \$1,000).

We further note that the Committee's deliberations will take place in the context of two other bills placed before the Senate subsequent to Senator Lambie's Bill, namely:

- the *Commonwealth Electoral Amendment (Banning Dirty Donations) Bill 2020*, presented in June 2020 ("Senator Waters' bill"), which at present does not appear to have been referred to a Committee
- the *Electoral Legislation Amendment (Miscellaneous Measures) Bill 2020*, presented in June 2020 ("the Government bill"), which has been referred to the Joint Standing Committee on Electoral Matters for inquiry

These bills do not deal with the subject of donations *disclosure*, but are still relevant to proposals found in Senator Lambie's bill which the Committee is examining.

Senator Waters' bill would make it illegal for certain categories of businesses (tobacco, gambling etc) to make *any* donations to political parties. PHAA believes that this policy direction is strongly in the public interest. **PHAA therefore recommends that Senator Waters' Bill should also be passed by the Senate and the Parliament**, noting that it would not contradict the disclosure rules proposals in Senator Lambie's bill which the Committee is currently examining. Senator Waters' bill would also compliment the desirable policy direction already taken by some state parliaments.

By contrast, the Government bill attempts neither of these reforms, but rather contains (among other less controversial measures) certain provisions which (if valid) would permit any donor which has been prohibited by state law from donating to state-registered political parties to continue to donate to Commonwealth-registered parties, based on an awkward distinction that turns on a concept of donations being expended solely on 'federal purposes'. Such state donor prohibition laws are already in existence in

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New South Wales¹ and Queensland². To date, these laws are addressed to the category of 'property developers', but PHAA supports current policy proposals to extend that prohibition to other categories which are highly relevant to public health and wellbeing policy-making by governments and legislatures. The relevant provisions of the recent Government bill would allow state-prohibited categories of businesses, whoever they may be, to continue to make donations to Commonwealth-registered parties, despite state parliaments having concluded that they have a corruptive impact on the political parties which accept them. A previous Commonwealth law provision attempting the same end has already been found by the High Court to be invalid on constitutional grounds. **PHAA recommends that the policies advanced in the proposed replacements to sections 302CA and 314B of the Government 'Miscellaneous Measures' Bill should NOT be supported**, since they would work to undermine the strongly desirable public interest inherent in the policy direction already taken by some state parliaments.

Summary of recommendations:

- **The Committee should give support to Senator Lambie's 'Donation Reform' Bill, and make such a recommendation to the Senate in its report.**
- **Senator Waters' 'Banning Dirty Donations' Bill should be passed by the Senate and the Parliament**
- **The policies allowing parties to avoid state-law donation prohibitions using the concept of 'federal purposes' advanced in the proposed replacements to sections 302CA and 314B of the Government 'Miscellaneous Measures' Bill should NOT be supported**

The PHAA appreciates the opportunity to make this submission. Please do not hesitate to contact us should you require additional information or have any queries in relation to this submission.

Terry Slevin
Chief Executive Officer
Public Health Association of Australia

30 June 2020

¹ See *Election Funding, Expenditure and Disclosures Act 1981* (NSW), Part 6, Div 4A.

² See *Electoral Act 1992* (Queensland), Part 11, Div 8, Subdiv 1A